

ASSEMBLY BILL

No. 1288

Introduced by Assembly Member Fong

February 27, 2009

An act to add Article 2.5 (commencing with Section 2811) to Chapter 2 of Division 3 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1288, as introduced, Fong. Employment: hiring practices: electronic employment verification.

The E-Verify Program of the United States Department of Homeland Security, in partnership with the United States Social Security Administration, enables participating employers to use the program, on a voluntary basis, to verify that the employees they hire are authorized to work in the United States.

The bill would prohibit the state, or a city, county, city and county, or special district, from requiring an employer other than one of those government entities to use an electronic employment verification system.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares both of the
- 2 following:
- 3 (a) Federal law establishes an electronic employment verification
- 4 system originally known as the Basic Pilot Program (enacted by
- 5 Section 404 of Public Law 104-208), but more commonly known

1 as the E-Verify Program, as an experimental and temporary system
2 available to employers on a voluntary basis.

3 (b) Therefore, it is the intent of the Legislature that the state
4 maintains the intent of federal law by ensuring that private
5 employers retain the ability to choose whether to participate in the
6 electronic verification program.

7 SEC. 2. Article 2.5 (commencing with Section 2811) is added
8 to Chapter 2 of Division 3 of the Labor Code, to read:

9
10 Article 2.5. Electronic Employment Verification Systems
11

12 2811. Neither the state nor a city, county, city and county, or
13 special district shall require an employer to use an electronic
14 employment verification system, including under the following
15 circumstances:

16 (a) As a condition of receiving a government contract.

17 (b) As a condition of applying for or maintaining a business
18 license.

19 (c) As a penalty for violating licensing or other similar laws.

20 2812. For purposes of this article, the following terms have
21 the following meanings:

22 (a) “Electronic employment verification system” means an
23 employment verification system that allows employers to
24 electronically verify workers’ employment authorization with the
25 federal government. This includes the Basic Pilot Program, enacted
26 by Section 404 of Public Law 104-208, renamed in 2007 as the
27 E-Verify Program, and other pilot programs for electronic
28 employment eligibility confirmation. The term “electronic
29 employment verification system” does not include the I-9
30 Employment Eligibility Verification form or any other employment
31 eligibility systems that are required by federal law.

32 (b) “Employer” means an employer other than the state, or a
33 city, county, city and county, or special district.